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***Tax Tips for  
Motor Vehicle  
Dealers  
Sales and Use Taxes***

***July 1996***

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## PREFACE

This pamphlet is designed to help motor vehicle dealers understand California's Sales and Use Tax Law as it applies to the sale, lease, or use of a vehicle. Information about vehicle repairs and the sale and use of parts is provided in Pamphlet 25, *Tax Tips for Auto Repair Garages and Service Stations*, which is available from your local Board office (see page 41).

This pamphlet complements another Board of Equalization publication, *Your California Seller's Permit*. That publication, which is provided to first-time applicants for seller's permits, includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records.

If you cannot find the information you are looking for in this booklet, please contact your local Board office. Staff will be glad to answer your questions.

We welcome your suggestions for improving this or any other tax tip pamphlet. You may use the reader survey on page 47 to let us know what you think, or you may send your suggestions to:

Audit Evaluation and Planning Section  
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*Note: The statements in this booklet are general and are current as of the date on the cover. The Sales and Use Tax Law (Revenue and Taxation Code, Section 60001 and following) is complex and subject to change. If there is a conflict between the law and this booklet, any decisions will be based on the law and not this booklet.*

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# 1. Motor Vehicle Sales

*As a motor vehicle dealer, you must generally report tax on your vehicle sales to the State Board of Equalization. Some sales, however, are exempt from tax under the Sales and Use Tax Law. This chapter provides information on the taxability of vehicle sales and of charges associated with those sales, such as license fees and dealer-installed extras. Information is also provided on the tax impact of trade-ins, discounts, rebates, and factory-dealer incentives.*

*If you have any question regarding the taxability of your sales, please contact a local Board office for information. Staff will be glad to help. Field office telephone numbers are listed on page 41. For information on leases and rentals, please see chapter 2.*

## INTRODUCTION

There are a variety of rules that govern how tax applies to sales of new and used motor vehicles. Most likely, the majority of your sales will involve purchases made by private individuals who will use the vehicle in California for personal or business purposes. In those instances, the transaction is generally subject to tax. However, the taxability of a sale may also depend on such factors as whether the vehicle is being delivered to a customer outside California, or is being sold to a member of the military or to another dealer or a leasing company. This chapter provides information on these and similar types of sales.

## SPECIFIC TYPES OF SALES

### *Lease and Rental Vehicles*

Tax applies to sales of lease and rental vehicles following their use in lease or rental service in the same manner as to any other vehicle. When a retail sale of these vehicles is made, tax applies to the total selling price, regardless of tax that may have been previously paid on the lease or rental receipts. (See note below if you are licensed as a lessor-retailer with the Department of Motor Vehicles.)

If a lessee chooses, as part of a lease agreement, to buy a vehicle, you must report sales tax based on the amount required to be paid upon exercise of that option.

#### **Note: Licensed Lessor-Retailers**

If you sell and lease vehicles and are licensed by the Department of Motor Vehicles as a lessor-retailer, the following special rules apply to the retail sale of a leased vehicle:

- If you sell the vehicle to the lessee, you are not required to file a report of sale with the Department of Motor Vehicles (DMV). You are also not liable for sales tax on the transaction; however, the lessee will be required to pay use tax when he or she registers the vehicle. (*Note: If you do file a report of sale when selling to the lessee, even though you are not required to, you will owe sales tax on the sale.*)

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- If you make a retail sale of a leased vehicle to someone other than the lessee, you are required to file a report of sale and to report sales tax.

### *Company Vehicles and Demonstrators*

Tax applies to the sale of company cars, parts and service department vehicles, tow trucks, demonstrators, and so forth, in the same manner as it applies to other vehicle sales. You should ensure that sales of these vehicles are recorded in the normal manner with regular sales. Otherwise, they may be overlooked for tax reporting purposes.

Demonstrators that are being held for resale or lease and used *solely* for demonstration or display purposes are not subject to tax until sold. However, vehicles that are held for resale or lease and used for purposes other than demonstration or display may be subject to use tax. See chapter 3 for more information.

### *Repossessed Vehicles*

The sale of a repossessed vehicle is no different for tax purposes than other retail sales. If you transfer a repossessed vehicle to a third party who assumes the unpaid contract, you must report sales tax based on the total sales price.

### *Vehicles Purchased for Use Outside California*

*(If vehicle is used in interstate commerce, please see page 3)*

You are not required to report tax on a vehicle that is sold and delivered for use outside of California. You must establish that the vehicle was delivered to the purchaser outside California (for example, delivered by your employee or by common carrier), and that the purchaser did not take possession of the vehicle in California. Even if the vehicle is delivered outside California, you must collect use tax if the buyer purchased the vehicle for use in this state.

*Required Documentation.* You must obtain evidence in support of the claimed nontaxable status of the sale, including the following:

- Evidence of the customer's out-of-state address
- In order to demonstrate that the vehicle is delivered to an out-of-state location, you need to retain (1) documents supporting the delivery or shipment, such as bills of lading, employee's expense claims, and so forth, and (2) a statement signed by the delivery person and the purchaser, certifying delivery of the vehicle to an out-of-state location. You are urged to have the statement notarized at the out-of-state delivery point, with the delivery person and the purchaser both present before the notary. You can use form BT-448, copies of which can be ordered from the Board, or you can use a statement that is substantially similar to that found in form BT-448 (see page 44). Once completed, the original must be returned to you for your records.
- If your customer claims the vehicle is being purchased for use outside California and you know the customer is a resident of this state, you must obtain a signed statement

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certifying that the vehicle is being purchased for use outside California. You can use form BT-447, which can be ordered from the Board, or you can use a statement that is substantially similar to that found in form BT-447 (see page 43). If you do not obtain a signed statement from the customer, the vehicle is considered to be purchased for use in this state, and you must collect use tax on the sale.

If all of the above conditions are met, you are not required to pay tax on the sale. Although you must report the sale as part of total gross receipts on your tax return, you may claim the amount of the sale as a deduction on the same return, under "Sales in Interstate or Foreign Commerce."

See also page 5, "Sales to Residents of a Foreign Country" and "Sales to Military Personnel."

### **Customer's Liability if Vehicle Is Used in California**

Although you are not required to pay or collect tax on a vehicle purchased and delivered for use outside California (as described above), the buyer may be required to pay use tax.

In general, a customer who purchases a vehicle for delivery outside California is liable for use tax if, *following the purchase*, he or she:

- First uses the vehicle outside of California but brings it into the state within 90 days of the date of purchase and, during the first six months following entry, stores or uses the vehicle more in California than out of state. It should be noted that time used to ship the vehicle to California or to store it pending shipment does *not* count toward the 90-day requirement.

**OR**

- First functionally uses the vehicle in California.

### *Vehicles Used in Interstate Commerce*

If you sell a vehicle for use in interstate commerce (to transport persons or property for hire between states), you are not required to report tax on the sale. However, the following conditions must be met for this exemption to apply:

- The vehicle must be delivered to the purchaser outside California.
- You must obtain from the buyer a signed statement, taken in good faith, certifying the following:
  - That the vehicle will be functionally used in interstate commerce *prior* to its entry into California. (See example on page 4.)
  - That the vehicle will be used continuously in interstate commerce, both within and without California.
  - That the buyer understands that if the Board determines, based on the vehicle's use, that use tax is payable, he or she will pay the tax directly to the Board (see next page, "Customer's Liability if Vehicle Is Used in California").

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*Vehicles Used in  
Interstate Commerce  
(continued)*

If you deliver or ship a vehicle to an out-of-state location for use in interstate commerce, you need to retain (1) documents supporting the delivery or shipment, such as bills of lading, employee expense claims, and so forth, and (2) a notarized statement signed by the delivery person and the purchaser, certifying delivery of the vehicle to an out-of-state location (You can use form BT-448, copies of which can be ordered from the Board, or you can use a statement that is substantially similar to that found in form BT-448. See page 44.)

If all of the above conditions are met, you are not required to pay tax on the sale. Although you must report the sale as part of total gross receipts on your tax return, you may claim the amount of the sale as a deduction on the same return, under "Sales in Interstate or Foreign Commerce."

See also page 5, "Sales to Residents of a Foreign Country" and "Sales to Military Personnel."

**Customer's Liability if Vehicle Is Used in California**

Although you are not required to pay or collect tax on a vehicle purchased and delivered for use in interstate commerce (as described above), the buyer may be required to pay use tax if *either* of the following events occur:

- The vehicle is first functionally used in California (that is, use tax applies if the vehicle is not used in interstate commerce until *after* it has entered California). See example below.

*Example:* A truck delivered to a purchaser outside California is immediately brought into this state empty to pick up any payload that can be found. *After* the vehicle enters California, a shipment destined for the Midwest is booked, and the vehicle picks up the cargo in California and transports it to its destination. In this instance, the first functional use occurred in California, and the owner of the vehicle would be required to pay use tax based on the vehicle's purchase price. (If the payload had been booked for interstate shipment *before* the truck was dispatched to California, the first functional use would have occurred outside California.)

**OR**

- After being first functionally used in interstate commerce outside of California, the vehicle is brought into California within 90 days\* of the date of purchase and, during the first six months following entry, is used or stored more in California than it is out of state.\*\*

*Notes:*

\* The time used to ship a vehicle or store it for shipment does not count toward the 90 days.

\*\* A vehicle will not become subject to use tax if during the six months after entry into this state it is used continuously in interstate commerce both within and without the state. This means that every trip made during that time must contain

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cargo that has its origin in one state and destination in another, even though part of the cargo on a given trip may be intrastate in nature. It does not mean every trip must begin or end in California. (However, the use of a vehicle *exclusively* in California is subject to use tax, regardless of the origin or destination of the cargo.)

*Sales to  
Military Personnel*

If you sell a vehicle to a member of the military who is on active duty, you may or may not be required to report sales tax, as described below:

- *Vehicle is delivered to or received at a location in California.*  
You must report sales tax on the sale — even if the service member's place of residence is outside California.
- *Vehicle is delivered to or received at a location outside California.*  
Sales tax does not apply. Although it is generally presumed that the vehicle is purchased for use in this state if it is brought into California within 90 days of the date of purchase (and therefore subject to use tax), no tax is due if the service member moved to California because of an official transfer to the state *and* the sale (that is, delivery of the vehicle) occurred prior to the date the service member received the transfer order.

*Sales to  
Disabled Veterans*

A partial sales tax exemption may apply to sales of vehicles to disabled veterans. If a portion of the payment is made by the veteran and a portion is paid directly by the Veterans Administration, tax applies only to the amount paid by the veteran.

See also page 31, "Modifications of Vehicles for Persons with Disabilities."

*Sales to  
Residents of a  
Foreign Country*

Subject to certain conditions, neither sales tax nor use tax applies to the sale of a new, noncommercial motor vehicle manufactured in the United States and sold to a resident of a foreign country. To qualify for the exemption, the following conditions must be met:

- The foreign resident must have arranged for the purchase through an authorized vehicle dealer in the foreign country before coming to the United States.
- The purchaser must obtain an in-transit permit from the Department of Motor Vehicles, as required by Section 6700.1 of the Vehicle Code.
- No later than the 30th day from the first date of operation under the in-transit permit, the retailer must deliver or ship the vehicle to a point outside the United States by means of:
  - Facilities of the retailer (for example, having the vehicle driven to a foreign destination by a dealership employee or using dealership equipment to make the delivery).
  - A carrier, forwarding agent, export packer, customs broker, or other person engaged in the business of preparing property for export, or arranging for its export.

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If you claim this exemption, you must obtain and retain evidence to support your claim. Examples of evidence of export of vehicles that you deliver or ship to a foreign country by your employees or by other means include the following:

- Bills of lading
- Import documents of a foreign country
- Employee expense claims
- Fuel purchase receipts and motel receipts

If a vehicle is not removed from this country as required above, you as the retailer will be liable for the sales tax, as well as applicable fees and penalties provided for in Section 6700.1(a) of the Vehicle Code. That section also provides that if the conditions of the in-transit permit are not met, the manufacturer of the new motor vehicle sold to a foreign purchaser under the above conditions will reimburse the retailer for an amount equal to the sales tax and registration fees and penalties paid by the retailer. Such amounts received by the retailer from the manufacturer are not considered part of the gross receipts from the sale of the vehicle.

*Sales to  
Foreign Diplomatic  
Personnel*

Sales tax does not apply to sales to foreign consular officers, employees, and members of their families if those persons have been granted immunity from tax according to treaties or other diplomatic agreements with the United States.

The U.S. State Department issues "tax exemption cards" to foreign diplomatic personnel who are exempt from sales tax. The cards include a photograph and a description of the authorized bearer and specify either that all transactions or only transactions that exceed a stated amount (threshold level) are exempt. Some cards limit the bearer to official purchases only and do not apply to personal purchases.

To support the tax-exempt status of these sales, you must prepare an invoice or other written evidence of the sale and attach a photocopy of the front and back of the card, the number of the exemption card, and the exemption threshold level specified on the card. You may also request from the buyer additional identification, such as a U.S. State Department driver's license or diplomatic identification card.

Vehicles may be purchased exempt from tax by foreign consular officers who do not hold a Tax Exemption Card. However, in order to do so, an identification letter must be furnished directly to the retailer from the Office of Foreign Missions, U.S. Department of State. The letter must be provided to the retailer at the time of the sale and must include the following information: the name of the purchaser; confirmation of his or her tax-immune status; an identification number; and the date of accreditation of the diplomat seeking the exemption.

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*Note:* Vehicles that are sold and registered to foreign governments (rather than to diplomatic personnel of those governments) are generally subject to sales tax.

***Sales to  
U.S. Government  
Agencies***

Sales tax does not apply to the following:

- Sales to the United States government or its unincorporated agencies and instrumentalities
- Sales to any incorporated agency or instrumentality of the United States owned wholly either by the United States or by a corporation wholly owned by the United States
- Sales to the American National Red Cross, its chapters and branches

You must obtain and keep copies of government purchase orders or remittance advices to support claimed exemptions.

*Note:* The following organizations are *not* considered exempt agencies of the United States. Consequently, sales to these and other nonexempt organizations are subject to tax.

- American Legion Posts in federal areas
- Community action organizations
- Comsat
- District agricultural associations
- National Guard
- Navy Relief Society

***Sales to  
Federally Chartered  
Banks***

If you sell a vehicle to a federally chartered bank, the sale is exempt from sales tax because, under federal law, such banks are exempt from direct state taxation. Sales to banks that are not federally chartered, however, are subject to tax.

***Sales to Other  
Dealers for Resale***

If you sell or trade a new or used vehicle to another dealer for resale, you are not required to report tax on the sale if the buyer provides you with a valid resale certificate at the time of purchase. When such sales are made to dealers who handle the same line of vehicles, there is generally no difficulty in showing that the sales were for resale.

However, there are instances when another dealer will purchase a vehicle for a purpose other than for resale. For example, you may sell a Chevrolet truck to a Buick dealer who will use the truck for the parts department. Because the purchase is not for resale, you cannot accept a resale certificate and must report sales tax.

If you sell a used vehicle to a retail customer without preparing a Dealer's Report of Sale, you are still liable for sales tax — even if the purchaser has paid use tax to the DMV.

***Sales to Leasing  
Companies***

**Passenger Vehicles, Etc.**

Passenger vehicles and other vehicles that are not defined as *mobile transportation equipment* (see page 12) may be sold to leasing companies for resale under the following conditions:

- 
- You obtain a valid resale certificate from the leasing company.
  - The vehicles are registered in the manner prescribed by Section 4453.5 of the California Vehicle Code, that is, either in the name of the lessor or the lessor and lessee jointly. (If a vehicle is registered in the name of the lessee only, the Board considers the transaction a retail sale and subject to tax.)

### **Mobile Transportation Equipment**

Leasing companies that purchase mobile transportation equipment (defined on pages 12-13) are not generally considered retailers of the equipment being purchased. For tax purposes, they are generally considered consumers (users) of such equipment. As a result, you would report tax on the sale.

*Note:* You can sell mobile transportation equipment to a leasing company without reporting tax if the following conditions are met:

- The leasing company issues a valid and timely resale certificate, and
- The leasing company issues the resale certificate for the limited purpose of reporting use tax liability based on the fair rental value of the equipment (see chapter 2 “Vehicle Leases and Rentals”).

### *Sales of Vehicles Owned by Dealership Personnel*

Personal cars of managers, salespersons, employees, or other personnel are often displayed for sale at a motor vehicle dealer’s place of business, or a dealer may otherwise aid in the sale. As a motor vehicle dealer, you must report sales tax if *either* of the following occurs:

- You report the sale to the Department of Motor Vehicles on a Dealer’s Report of Sale.
- You execute a conditional sales contract on which your name appears as the seller.

### *Transfer of Equity Sales*

To forestall a default or repossession of a vehicle, you may participate in arranging for a transfer of equity from the original purchaser to another party. Under certain conditions, you may be required to report tax on such transfers.

For example, if you assist in the transfer by displaying the vehicles for sale on your lot, obtaining the new purchaser, and negotiating the transfers at your place of business, you may be liable for sales tax. If your participation is only incidental and the negotiations are handled by the parties and lending institutions, you have no sales tax liability for the transfer. However, if you prepare a Dealer’s Report of Sale to the DMV, or if you execute a conditional sales contract as the seller, you will be liable for sales tax on the transfer.

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*Consignment Sales*

If you sell a vehicle for a person on a consignment basis, the transfer and sale to the customer is considered to be a sale made by the dealer. Consequently, sales tax must be reported on the sale in the same manner as for any other sale.

**SPECIAL CHARGES RELATED TO MOTOR VEHICLE SALES**

*License Fees*

Sales tax does *not* apply to license fees that you collect from a customer and pay to the Department of Motor Vehicles. If, however, you collect more than the amount required by DMV, you must report tax on the excess amount.

*Dealer-Installed  
Extras*

Prior to delivery, you may install accessories such as radios, heaters, air conditioning units, trailer hitches, and so forth in connection with the sale of the vehicle. The charges for these dealer-installed extras, including installation labor charges, are subject to tax and must be included as part of the selling price on which tax is based. Tax also applies to charges for undersealing, or similar charges, even if the work is sublet and only involves labor or services.

See also page 31, "Modifications to Vehicles Used by Persons with Disabilities."

*Documentation Fees*

Charges for document preparation in connection with the sale of a vehicle, such as transfer papers required by the Department of Motor Vehicles, are subject to tax.

*Federal Excise Tax*

Sales tax does *not* apply to any federal retail excise tax imposed on retail sales. A federal excise tax imposed on retailers or consumers should not be included as part of the selling price that is subject to California's sales tax.

*Broker's Fees and  
Commissions*

Brokers sometimes participate in the sale of a vehicle and act as an agent of the motor vehicle dealer or the customer. When the broker is acting as your agent, you must include commissions paid to the broker as part of the taxable selling price of the vehicle. When the broker is acting as an agent of the customer, the fee charged by the broker is not subject to tax.

*Financing, Interest,  
and Insurance Charges*

Financing, interest, and insurance charges are not subject to tax. When you sell a vehicle on credit, under a security agreement or otherwise, you should show the sales price separately from charges for insurance, interest, financing, or for carrying the contract. If you do not show these charges separately, they may be subject to tax.

*Smog  
Certification Fees*

*Fee charge.* You are not required to report tax on the smog certificate fee required by the Department of Consumer Affairs (the fee is currently set at \$7.00). However, if you charge your customer sales tax reimbursement on the fee in error, you must either refund that amount to your customer or remit it to the Board.

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*Related charges.* Other charges for the smog check, such as inspection charges, are taxable if the smog check is done for a vehicle you plan to sell. If the smog check is not done in connection with a retail sale, the labor charge in excess of the certificate fee is not subject to tax.

For information on the taxability of charges for repairs associated with a smog check, you should refer to Pamphlet 25, *Tax Tips for Auto Repair Garages and Service Stations*.

If you have questions regarding the taxability of smog certificate charges, please contact a local Board office. If you have questions regarding certificate requirements, please contact the nearest office of the Bureau of Automotive Repair, Department of Consumer Affairs.

### ***Warranties***

Charges for mandatory factory warranties are subject to tax, whether or not the charges are stated separately on the invoice. Charges for optional warranties (warranties that are not required and are purchased by the customer for an extra charge) are not subject to tax.

For information on the taxability of parts furnished under a warranty, please see page 36-37.

## **TRADE-INS, DISCOUNTS, REBATES, AND INCENTIVES**

### ***Trade-ins***

If you accept a trade-in on the purchase of a vehicle, the allowance for the trade-in cannot be excluded from the amount on which tax is based. For example, if you sold a car for \$20,000 and accepted a trade-in valued at \$4,000 as partial payment, tax would be based on the \$20,000 selling price.

If you allow a value on the trade-in that is higher than its actual value, the overallowance may not be treated as a discount for tax purposes or otherwise deducted from the amount subject to tax. Similarly, if you allow a value that is less than the fair market value, the Board will presume that the allowance agreed upon was the fair market value for tax purposes (unless the facts indicate that the underallowance was for the purpose of avoiding sales tax).

### ***Discounts***

If you sell a vehicle at a discount, the amount of the discount is not subject to tax. For example, if you sell a \$15,000 vehicle and discount the price by 10 percent (\$1,500), tax is based on the \$13,500 selling price. The records related to the sale should clearly show the discount amount agreed upon, the amount subject to tax, and the amount of tax.

If both a discount and a trade-in are involved in a sale, the records must indicate both the discount value and the amount allowed for the trade-in. Otherwise, the amount of the claimed discount will be considered to be an overallowance, and the total sales price will be subject to tax.

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*Manufacturer's  
Rebates*

A manufacturer's rebate is an allowance made by the manufacturer directly to a consumer as an incentive to purchase the manufacturer's vehicle from a dealer. The rebate may be paid to the dealer, who in turn pays it to the customer, or it may be paid directly to the customer.

Manufacturer rebates are considered part of taxable gross receipts and cannot be excluded from the amount that is subject to tax. For example, if you sell a vehicle for \$15,000, and your customer will receive a \$500 manufacturer's rebate, tax is based on the \$15,000 selling price. This remains true even if your customer assigns the rebate to you, such as for a down payment.

*Factory-Dealer  
Incentives*

Under a factory-dealer incentive, the manufacturer sells the vehicle to the dealer at a discounted price to promote the sale of the vehicle. The dealer, in turns, is able to sell the car to the customer at a lower price. The amount of the discount received by the dealer is not subject to tax. Tax is based on the selling price of the vehicle.

If you are offering an incentive different from the one described above, please contact a local Board office for advice regarding how to apply tax.

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## 2. Vehicle Leases and Rentals

*Vehicle leases and rentals are generally subject to tax. However, the taxability of mobile transportation equipment differs from the taxability of other vehicles. Consequently, you must first determine whether or not a vehicle is considered mobile transportation equipment before you can determine how to apply tax.*

*For more information on leases, you should request a copy of pamphlet 46, Tax Tips for Leasing of Tangible Personal Property in California, available from a local Board office (see page 38 for ordering information).*

### MOBILE TRANSPORTATION EQUIPMENT

The tax rules that apply to mobile transportation equipment leases differ from those that apply to other vehicles. For that reason, you should first determine whether a vehicle qualifies as mobile transportation equipment.

#### *Examples of Mobile Transportation Equipment*

The following are classified as mobile transportation equipment:

- Trucks
- Truck tractors
- Truck trailers
- Pickup trucks, including smaller pickups, such as Ford or Toyota pickups. Even though pickup trucks are often considered to be passenger vehicles, they are in fact mobile transportation equipment and must be treated as such for tax purposes.
- Buses
- Vehicles designed for carrying more than 10 persons including the driver are regarded as mobile transportation equipment and not passenger vehicles.
- Panel trucks designed primarily for carrying property. (Such vehicles cannot be registered as passenger vehicles and are therefore classified as mobile transportation equipment.) Also, vans equipped with a front seat only and designed primarily for carrying property.
- Hearses
- Bogies

The term *bogie* refers to a vehicle that consists of an axle, or axles, with wheels and tires and a device mounted on its frame to support a container (van body) as an undercarriage. It acts as wheels for and in conjunction with the container (or van body). Bogies are specifically designed to couple under a container temporarily for highway use, being detachable when not required. Bogies may be designed and constructed to allow a sliding movement under a container (or van body) to several positions in order to adjust to the desired axle loading.

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- Chassis

The term *chassis* means a frame with one or more axles designed to be used in conjunction with, and as a temporary support or undercarriage, for a container or other van-type box. The chassis and axle, or axles, may be designed and constructed to allow a sliding movement for extending the chassis to allow the carriage of various length bodies or to allow movement of one or more axles to any given position under the container. When operated as a semitrailer, the front portion of the container and chassis is attached to a motor vehicle or dolly.

- Dollies

The term *dolly* refers to a vehicle that consists of a tongue, fifth wheel, and axle equipped with wheels and tires to be connected to a semitrailer so as to support the front end of the semitrailer, including a portion of the cargo thereon, but which is not permanently attached to the semitrailer.

When coupled to the semitrailer by its fifth wheel (which is mounted on the frame) and to a trailer by the tongue, the semitrailer becomes in effect a "full" trailer. A dolly may also be designed and used as the third or rear axle of a two-axle tractor to act as an additional axle to support a portion of the weight of a towed semitrailer and any load thereon, thus reducing tractor axle loads. Pole, pipe, and logging dollies consist of a tongue, bolster and axle, or axles, equipped with wheels and tires. When connected to a motor vehicle by its tongue, or by the cargo, this type of dolly is used to transport long poles, timbers, logs, pipes or structural materials with the rear end of the cargo resting on the dolly bolster and the front end on the motor vehicle.

- Tangible personal property which is or becomes a component of mobile transportation equipment.

### *Application of Tax to Leases of Mobile Transportation Equipment*

If you purchase mobile transportation equipment for lease, you are considered the consumer (user) of the equipment for tax purposes. You must report and pay tax on your purchase price unless you elect to pay tax based on the equipment's fair rental value (normally the rental amount required by the lease). *If you elect to pay tax based on the fair rental value, you must make this election on a timely basis (explained below).*

*Note:* If you elect to pay tax based on the fair rental value you can purchase the equipment with a resale certificate.

#### **(1) Tax based on fair rental value**

Your election to report tax based on the fair rental value must be made on a timely basis. That is, your first tax payment *must be made on or before the due date of the return for the reporting period in which the equipment is first leased*. If it is not, you must pay tax based on your purchase price of the equipment (see next section).

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You must continue to pay tax, based on the fair rental value, for each reporting period throughout the term of each lease—even though the lessee may not make the required rental payments. Likewise, tax must be reported whether the equipment is in California or outside the state. As long as you (the lessor) continue to own the equipment, the tax rate in effect when you first lease the equipment remains in effect throughout the term of subsequent lease agreements. If you sell the equipment and the new purchaser elects to pay tax based on the fair rental value, the new purchaser will pay tax at the rate in effect at the time of his or her purchase.

Although you are required to report and pay use tax each reporting period, you can be reimbursed by your customer (the lessee) for the use tax so long as the reimbursement amount (1) is stated separately on the lease agreement and (2) is not represented as use tax owed by the lessee. You must also provide the lessee with a receipt for each payment (see pages 18-19).

See also page 16, “Special Factors When Tax is Based on Rental Receipts.”

## **(2) Tax based on the purchase price**

Under this lump-sum payment method, you may:

- Pay your vendor sales tax reimbursement or use tax at the time you purchase the equipment (that is, you would not use a resale certificate to purchase the equipment). The vendor would then report the tax to the state on his or her tax return.

OR

- Report use tax based on the purchase price on your sales and use tax return for the reporting period in which the equipment is first leased (in this instance, you could use a resale certificate to purchase the equipment). You would report your cost for the equipment on your return, under “Purchases Subject to Use Tax.”

**Summary.** Whichever method you choose to pay tax, it is irrevocable. That is, if you choose to pay tax based on the purchase price of the equipment, you cannot change to reporting tax based on the fair rental value. And if you have made a timely election to report tax on the fair rental value, you cannot change that election and pay tax on the purchase price. If you wish to pay tax on the fair rental value but fail to pay by the due date of the return for the reporting period in which the equipment is first leased, you have lost the election to pay under this method and *must* pay tax based on the purchase price. This is true even if you have incorrectly collected tax reimbursement from the lessee.

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*Examples of Vehicles  
Not Considered  
Mobile Transportation  
Equipment*

## VEHICLES OTHER THAN MOBILE TRANSPORTATION EQUIPMENT

Below are definitions of vehicles that do not qualify as mobile transportation equipment. If you rent or lease any of the following types of vehicles to customers, please see page 16 for an explanation of how tax applies. If you are uncertain whether a vehicle should be considered mobile transportation equipment, please contact your local Board office.

- Passenger vehicles as defined in Section 465 of the California Vehicle Code, i.e., any motor vehicle other than a motor truck or truck tractor, designed for carrying not more than 10 persons including the driver, and used or maintained for transportation of persons.
- House cars and motor homes.
- Vehicles that are registered with the Department of Motor Vehicles as multipurpose vehicles.
- Motorcycles.
- A combination pickup and camper leased as a unit and registered with the Department of Motor Vehicles as a house car. If such vehicles are not registered as house cars, they are regarded as mobile transportation equipment.
- Minibuses or vans designed primarily for carrying persons, and limited in design to carrying not more than 10 persons including the driver, which are registered with the Department of Motor Vehicles as passenger vehicles under the Vehicle Code. Those not so registered are regarded as mobile transportation equipment.
- Vehicles designed to carry 10 persons or less, including the driver (these are considered passenger vehicles if so registered — even if the lessee carries more than 10 persons in the vehicle or installs extra seats). Vehicles designed to carry *more* than 10 persons including the driver are considered mobile transportation equipment.
- Forklift trucks.
- Trailers and baggage containers designed for hauling by passenger vehicles.
- One-way rental trucks identified to the Board. These vehicles are motor trucks of a kind required to be registered under the Vehicle Code, with a manufacturer's gross vehicle weight rating not exceeding 24,000 pounds. Such trucks are typically leased to customers by persons in the rental business and are leased out for short-term periods of not more than 31 days. They are used for one-way or local hauling of a customer's personal property.

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*Application of Tax to  
Leases of Vehicles  
Other Than Mobile  
Transportation  
Equipment*

In general, leases of vehicles other than mobile transportation equipment are subject to tax based on the rental payments. However, you are not required to pay tax based on rental receipts if:

- The vehicle is leased in substantially the same form as you acquired it; *and*
- You paid sales tax reimbursement or use tax to your vendor when you purchased the vehicle; *or*
- You paid California use tax based on your purchase price for the vehicle and reported the payment on a timely basis (by the due date of the return for the reporting period in which the vehicle was first leased).

If you have already paid California sales tax reimbursement or use tax, as described above, you must indicate this on the lessee's invoice so that the lessee will know the reason he or she does not owe tax on the rental payments (see pages 18-19).

If you do not pay sales tax reimbursement or use tax to your vendor or self-report use tax based on the purchase price, you must report tax based on rental payments. Although your customer (the lessee) is liable for the use tax due on the lease or rental payments, you are required to collect the tax and report and pay it to the Board on a timely basis. You must provide the lessee with a receipt for each payment (see page 19).

Please note:

- If you have paid tax based on the purchase price, you cannot change to paying tax based on rental receipts.
- Even if you wish to pay tax based on the purchase price, if you have not done so by the due date of the return for the reporting period in which the vehicle is first leased, you must collect and pay tax based on rental receipts.
- If you elect to collect tax based on rental payments and pay such tax to the Board, you can purchase vehicles for lease using a resale certificate. If you collect too much tax, you must refund the excess to the lessee or pay it to the state.

See also below, "Special Factors When Tax is Based on Rental Receipts."

### **SPECIAL FACTORS WHEN TAX IS BASED ON RENTAL RECEIPTS**

The following points should be observed for leases of vehicles (both for mobile transportation equipment and other vehicles):

*Vehicle Registration*

The California Vehicle Code (Section 4453.5) requires that leased vehicles be registered in the name of the *lessor* or of the *lessor and lessee* jointly. (If you registered the vehicle only in the lessee's name, the Board would assume that the transaction was a retail sale, and you would be required to report tax in a lump sum based on the purchase price).

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<i>License Fees</i>	License fees paid to the DMV and separately stated in a monthly charge to the lessee may be excluded from the amount that is subject to tax.
<i>Late Charges</i>	If you charge a lessee additional amounts as a penalty for overdue rental payments, those charges are not subject to tax so long as they are reasonable charges for the use of money or additional administrative expense.
<i>Interest Charges</i>	If you charge the lessee an interest payment that he or she must pay periodically along with the rental amount, the charge is subject to tax.
<i>Deficiency Charges</i>	Any deficiency amount the lessee is required to pay at the termination of a lease to satisfy the base rental must be included in rental receipts subject to tax.
<i>Insurance Charges</i>	If the lessee is required to purchase the insurance from you, you must include the insurance charge as part of the taxable receipts. If the lessee can buy the insurance from you or any other insurer, then the insurance charge is not subject to tax (the insurance cost must be stated separately on the lease agreement).
<i>Fuel Furnished by the Lessor (Wet Rentals)</i>	A <i>wet rental</i> is a lease of a vehicle in which the rent charge includes fuel furnished by the lessor. As the lessor, you may or may not be able to use a resale certificate to purchase the fuel (sales tax does not apply to purchases made with a valid resale certificate). Whether you can use a certificate will depend on whether you are considered the consumer of the fuel or the retailer, and that will depend on the type of vehicle you are leasing and other factors.

**Vehicles Not Classified as Mobile Transportation Equipment**

(See page 15 for examples.)

*If you report tax based on rental receipts*, you are considered a retailer of the fuel you furnish for wet rentals. As a result, you can use a resale certificate to purchase the fuel. You are, however, liable for tax on the amount charged to the lessee for the gasoline. When you report your sales on your tax return, you must include the gasoline charges as part of your total gross receipts for the reporting period (you can be reimbursed by the lessee for the tax).

*If you paid tax or tax reimbursement on the vehicle's purchase price and therefore do not report tax based on rental receipts*, you may or may not be able to use a resale certificate to purchase fuel for the vehicle, as described below:

- If you make a separate charge for the fuel on the invoice, you are considered a retailer of the fuel and can use a resale certificate to make your purchase. You are liable for tax on the amount charged to the lessee for the fuel. When you report your sales on your tax return, you must include the fuel charges as part of your total taxable gross receipts for the reporting period (you can be reimbursed by the lessee for the tax).

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- If you do not make a separate charge on the invoice for the fuel, you are considered the consumer for tax purposes and cannot use a resale certificate to purchase the fuel (that is, the sale of the fuel to you is subject to tax).

### **Vehicles Classified As Mobile Transportation Equipment**

(see pages 13-14 for examples.)

Regardless of whether tax has been paid based on the purchase price of the equipment or reported based on the fair rental value, you may or may not be able to use a resale certificate to purchase fuel for the equipment, as described below:

- If you make a separate charge for the fuel on the invoice, you are considered a retailer of the fuel and can use a resale certificate to make your purchase. You are, however, liable for tax on the amount charged to the lessee for the fuel. When you report your sales on your tax return, you must include the fuel charges as part of your total taxable gross receipts for the reporting period (you can be reimbursed by the lessee for the tax).
- If you do not make a separate charge on the invoice for the fuel, you are considered the consumer for tax purposes and cannot use a resale certificate to purchase the fuel (that is, the sale of the fuel to you is subject to tax). If you report tax based on the fair rental value and include fuel as part of the rental charge, tax does not apply to that portion of the lease attributable to the fuel.

### ***Required Notifications to Lessee***

#### **If You Report Tax Payments Made by the Lessee**

If you (as the lessor) elect to report tax based on rental receipts and collect tax from the lessee, you must provide the lessee with a receipt for the amount of tax collected. The receipt does not need to be formatted in a particular way, but it must contain the following information:

- The name and address of your business
- Your seller's permit number (or, if applicable, the number of your Certificate of Registration—Use Tax)
- The lessee's name and address
- A description of the property leased to the lessee
- The date on which the property was leased
- The amount of the rental for the period covered by the invoice
- The amount of tax collected from the lessee

#### **If Tax Does Not Apply to the Lease**

If you lease a vehicle for which the rentals are not subject to tax, you must indicate on the invoice that tax does not apply. You must also indicate why the tax does not apply.

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The most common reasons for tax not applying are the following (taken from Regulation 1686, "Receipts for Tax Paid to Retailers"):

- The vehicle is being leased in substantially the same form as it was acquired by the lessor and tax has been paid based on the purchase price of the vehicle.
- The property was acquired by the lessor in an exempt "occasional sale" and the lessor has paid, or elects to pay and will pay with his or her return for the period in which the property is first leased, use tax measured by the purchase price of the property instead of collecting tax on rental payments.

The lease may not be taxable for other reasons (for example, the transaction may be excluded from the definition of sale or purchase). If you believe the lease may not be taxable for a reason other than the two listed above, you should contact a Board of Equalization office for advice (see page 41).

#### **One-Way Rental Trucks** (*defined on page 15*)

At the time you lease a one-way rental truck to a customer, you (as the lessor) must inform the customer that the vehicle is designated as a one-way rental truck. You must also let the customer know of any taxes that are payable based on the lease or rental payments.

Once a truck has been identified to the Board as a one-way rental truck (that is, once you have reported taxes to the Board for the truck based on rental receipts), the election may not be revoked with respect to that truck. If you do not report tax based on rental receipts on a timely basis (see page 16), the vehicle will be treated as mobile transportation equipment for tax purposes.

#### *Allocating Local Use Tax*

Effective January 1, 1996, motor vehicle lessors must use a new reporting method for allocating local use tax collected on rental receipts from vehicle leases. Except for pickup trucks rated under a one-ton payload capacity, the new allocation method does not apply to motor vehicles that are considered mobile transportation equipment under Regulation 1661, *Leases of Mobile Transportation Equipment*.

In the past, the use tax has been allocated to the assumed place of use for the vehicle by the lessee, and the assumed place of use has been based on whether the lease was short term or long term. Under the new method, the allocation is still based on the duration of the lease; however, the definitions of short-term and long-term leases have been changed.

#### **Long-Term Leases**

A long-term lease is now defined as a lease that exceeds four months. For long-term leases, the assumed place of use for reporting the one percent local use tax is as follows:

- If the lessor is a California new motor vehicle dealer (defined in Section 426 of the Vehicle Code), the place of use for reporting the local use tax is the dealer's place of business.

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✎ Please see the table on page 46 for a summary of these guidelines.

- If the lessor is not a California new motor vehicle dealer, but purchases the vehicle from a California dealer (defined in Section 285 of the Vehicle Code), the place of use for reporting the local use tax is the business location of the dealer from whom the lessor purchases the vehicle.

Lessors who are required to allocate the local use tax to the location of the dealer, will do so using Schedule F. The schedule will be provided to lessors with their sales and use tax return.

*Note:* You are not required to use Schedule F to allocate the local tax to your location if you are a dealer who initiates a lease (for instance, you collect the first lease payment and/or an amount for capital cost reduction). This is because the local tax due on your sales or lease receipts are automatically allocated to your location unless you provide information to the contrary.

Lessors who are not California new motor vehicle dealers, or who do not purchase their motor vehicles from California dealers, should continue to use Schedule B to allocate the tax due on their long-term motor vehicle leases.

#### ***Short-Term Leases***

A short-term lease is now defined as a lease of four months or less. For short-term leases, the local use tax shall go to the business location of the lessor, unless the lessor is located outside of California (see the table on page 46).

#### ***Assigned Leases***

The place of use for the one percent local use tax will remain the same for the duration of the lease, even if the lessor sells the vehicle and assigns the lease contract to a third party. Accordingly, if you are a lessor who assigns lease contracts to another lessor, you are required to provide that lessor with copies of the original purchase contract for each vehicle and/or copies of prior schedules showing how the use tax has been allocated.

#### ***Out-of-State Lessors***

Out-of-state lessors must allocate local tax as described above if the vehicle is purchased from a California dealer or if the purchase involves a courtesy delivery by a California dealer. A courtesy delivery generally occurs when the California lessee is delivered a vehicle from a California dealer's inventory at the direction of the out-of-state lessor). See the table on page 46.

#### ***Sales of Lease or Rental Vehicles***

See page 1 for information on the sale of previously rented or leased vehicles or equipment.

### 3. Vehicles Used for Purposes Other Than Resale or Lease

#### INTRODUCTION

If you know at the time of purchase a vehicle will not be held for resale or lease in the regular course of business (for example, you are purchasing a service department vehicle), you cannot use a resale certificate, and tax applies to the sale of the vehicle to you. Likewise, you cannot use a resale certificate to purchase mobile transportation equipment for lease unless you will be reporting tax based on the fair rental value (see pages 13-14 for more information).

If you have purchased a vehicle without payment of tax for resale or lease and use it for a purpose other than demonstration or display (for example, you loan the vehicle to a customer or use it to pick up parts for the service department), you are generally liable for use tax for such use. As explained in the examples provided in this chapter, your use tax liability is based either on the vehicle's cost or its fair rental value.

If you have a question regarding any of the examples used in this booklet, or if you have a question regarding a use that is not described here, please call a nearby Board office for assistance.

***Important — please note:***

- If you purchase a vehicle for resale or lease and use it *exclusively* for demonstration or display purposes while you are holding it for resale or lease, you are not liable for tax for such use.
- If you have paid tax on a vehicle (that is, you paid sales tax reimbursement or use tax to your vendor when you bought the vehicle or reported use tax to the Board based on the vehicle's cost), you have no further tax liability for its use until it is sold or leased.

#### COMPANY AND SERVICE VEHICLES

Company and service vehicles include service cars, parts and service department vehicles, tow trucks, and so forth. Such vehicles are not considered to be held for resale or lease in the regular course of business. If you know at the time you purchase the vehicle that it will be used as a company or service vehicle, you cannot use a resale certificate to make your purchase. Tax applies to the sale of the vehicle to you.

If you remove a vehicle from your resale or lease inventory and use it exclusively as a company or service vehicle, you are liable for use tax based on your cost for the vehicle. You would report the purchase price on your sales and use return for the reporting period in which you began to use the vehicle as a company or service vehicle (under "Purchases Subject to Use Tax").

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If you occasionally remove a vehicle from your resale or lease inventory for temporary use as a company or service vehicle, you are liable for use tax based on the vehicle's fair rental value for the period of such use (the fair rental value is the amount normally charged for the rental of similar vehicles under similar circumstances).

## **VEHICLES LOANED TO CUSTOMERS OR OTHER USERS**

### *Loaned to Customers*

If you buy a vehicle to be used exclusively as a loaner for service department customers, the vehicle is not considered to be held for resale or lease. It is considered a company vehicle. As a result, you cannot use a resale certificate to purchase the vehicle and tax applies to the sale of the vehicle to you. If you should later sell the vehicle, you must report tax on the selling price.

If you remove a vehicle from the resale or lease inventory for use by a customer (for example, you loan the vehicle to a customer who is waiting for another vehicle that is being repaired or to a customer who is waiting for delivery of a vehicle they have purchased), you must generally report use tax for the period of time the vehicle is loaned. The use tax is based on the fair rental value of the vehicle (the fair rental value is the amount normally charged for the rental of similar vehicles under similar circumstances).

*Note to lessors.* If you loan a vehicle to a lessee who is awaiting delivery of a leased vehicle, and if the regular lease payments are taxable and continue to accrue during the period the vehicle is loaned, you are not required to report use tax on the loaned vehicle. The regular taxable lease payments will be considered to have covered the use of the loaned vehicle.

### *Loaned to Schools, Colleges, or Veterans' Institutions for Educational or Training Programs*

#### **Loaned to a California Public School District for Educational Purposes**

As a retailer, you are not liable for use tax for the loan of any tangible personal property, including vehicles, to a public school district in California for education programs conducted by the district. Although private and parochial schools do not qualify as public school districts, the loan of a vehicle to such schools for driver education purposes may be exempt from tax (see below).

#### **Loaned to Schools, Colleges, or Veterans' Institutions for Driver Education Purposes**

You are not generally required to report use tax for loans of vehicles for driver training purposes. This exemption applies to the following loans:

- Vehicles loaned to the California State colleges or the University of California to be used exclusively in an approved driver education teacher certification program conducted by the state college or university

- Vehicles loaned to be used exclusively for driver training in an accredited private or parochial secondary school, as part of a driver training program approved by the state Department of Education as a regularly conducted course
- Vehicles loaned to a veteran's hospital (or other nonprofit facility or institution operated for veterans) to provide instruction to veterans with disabilities regarding the operation of specially-equipped motor vehicles

### *Other Loans*

If you remove a vehicle from the resale or lease inventory and loan it to someone to use for purposes other than demonstration or display, you are generally required to pay tax on such use, as described below:

- If the vehicle is used frequently for demonstration or display and is loaned only incidentally (for a period of 30 days or less), you must report tax based on the fair rental value of the vehicle for the period of such use. The vehicle must have been used for demonstration or display purposes immediately preceding and following the loan.
- If the vehicle is not frequently demonstrated or displayed and you loan it out, it is not presumed to be held for resale or lease, and you must report use tax based on your purchase price for the vehicle.

*Note:* For information on assigned vehicles, please see the following:

- Assigned to salespersons (see below)
- Assigned to employees other than salespersons (see pages 25-26)
- Assigned to persons other than employees (see page 26)

## **VEHICLES USED BY SALESPERSONS AS DEMONSTRATORS**

The term *salesperson* refers only to vehicle salespersons, vehicle sales managers, sole proprietors, partners, and corporate officers who directly participate in negotiating sales. The following discussion presumes that you purchased the vehicle without paying tax on your purchase (for example, using a resale certificate).

### *Vehicle Is Assigned to a Salesperson*

*(not rented or sold to the salesperson)*

If you remove a vehicle from the resale or lease inventory and assign it to a salesperson to use as a demonstrator for 12 months or less, you must report tax based on the fair rental value, calculated at 1/60th of the purchase price, for each month of combined demonstration or display and use.

*Example:* You paid \$15,000 for a vehicle you purchased for resale or lease and assign it to a salesperson for use as a demonstrator for less than 12 months. You would report tax based on the 1/60th formula ( $\$15,000 \div 60 = \$250$  for each month of use).

If the vehicle will be used as a demonstrator for more than 12 months, you must report use tax based on your cost for the vehicle.

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If at the time you assign the vehicle to a salesperson, you do not know how long the vehicle will be used by the salesperson as a demonstrator, you can initially report tax at the 1/60th formula. Once 12 months are exceeded, you must report tax based on the purchase price minus the measure of tax previously reported under the 1/60th formula.

*Example:* You paid \$15,000 for a vehicle you purchased for resale. You assign the vehicle to a salesperson to use as a demonstrator, but at the time do not know how long the vehicle will be assigned for such use by the salesperson. The salesperson retains use of the vehicle as a demonstrator for more than 12 months.

You would report use tax based on the 1/60th formula for the first 12 months ( $\$15,000 \div 60 = \$250$  for each month of use). Once 12 months is exceeded, you would report use tax based on \$15,000 minus the measure of tax previously reported ( $\$250 \times 12$ , or \$3,000). As a result, you would report use tax based on \$12,000.

#### ***Vehicle Is Rented to the Salesperson***

If you rent a vehicle to a salesperson for use as a demonstrator and if the vehicle is not a truck or other type of mobile transportation equipment, you must collect and report tax on the rental receipts.

If the rental receipts are less than 1/60th of your purchase price for the vehicle for each month of rental, you must report tax under the 1/60th formula (see first example above).

If you rent mobile transportation equipment to a salesperson for use as a demonstrator, please refer to chapter 2 "Leases of Vehicles" for information on how to apply tax to the rental receipts.

#### ***Vehicle Is Sold to the Salesperson***

If you sell a vehicle to a salesperson for use as a demonstrator, you must report sales tax based on the amount paid by the salesperson for the vehicle.

### **VEHICLES ASSIGNED TO EMPLOYEES OTHER THAN SALESPERSONS**

If you purchase a vehicle for resale or lease and assign it to an employee of the dealership other than a salesperson (see definition of *salesperson* on page 23), you are generally liable for tax as described below. It is presumed, unless the dealership can clearly establish otherwise, that vehicles assigned to persons who are not salespersons are used less for demonstration or display and more for other business purposes or for personal use.

#### ***Vehicle Is Assigned for 12 Months or Less***

If you assign the vehicle to an employee or officer of the dealership for a period of 12 months or less, you must report use tax based on the fair rental value. Tax applies to the periods of time when the vehicle is used for purposes other than demonstration or display.

The fair rental value, as it applies to vehicles assigned to employees and officers, is 1/40th of the purchase price of the vehicle for each month of combined demonstration or display and use.

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***Vehicle Is Assigned for More Than 12 Months***

If you assign a vehicle to an employee or a series of employees for more than 12 months, it is presumed that the vehicle is not being held for resale or lease in the regular course of business. As a result, use tax must be reported based on your cost for the vehicle.

***Vehicle Is Assigned for Unknown Duration***

If at the time you assign the vehicle you do not know how long it will be used, you can initially report tax at the 1/40th formula for employees or officers of the dealership. Once 12 months are exceeded, you must report tax based on the purchase price minus the measure of tax previously reported under the 1/40th formula.

Example: You paid \$15,000 for a vehicle you purchased for resale. You assign the vehicle to an employee (other than a salesperson) to use as a demonstrator, but at the time do not know how long the vehicle will be assigned for such use. The employee retains use of the vehicle as a demonstrator for more than 12 months.

You would report use tax based on the 1/40th formula for the first 12 months ( $\$15,000 \div 40 = \$375$  for each month of use). Once 12 months is exceeded, you would report use tax based on \$15,000 minus the measure of tax previously reported ( $\$375 \times 12$ , or \$4,500). As a result, you would report use tax based on \$10,500.

**VEHICLES ASSIGNED TO PERSONS WHO ARE NOT EMPLOYEES OF THE DEALERSHIP**

If you assign a vehicle to a person other than an employee or officer of the dealership, such as a relative or business associate, you must report tax based on your cost for the vehicle (your purchase price for the vehicle). The vehicle is not presumed to be held for resale or lease.

**DONATED VEHICLES**

Use tax does not apply if you remove a vehicle from your resale inventory and donate it to a qualified organization *located in California*. To qualify, the organization must be an institution described in Section 170(b) (1) (A) of the Internal Revenue Code.

Qualified organizations include, but are not limited to, certain religious and charitable organizations, as well as certain organizations operated for educational purposes. If you have questions regarding whether an organization is qualified, please contact a local Board office.

**UNASSIGNED DEMONSTRATORS REGISTERED IN NAME OF DEALERSHIP**

As a dealer or lessor, if you purchase a vehicle with a resale certificate and register it in your name with the Department of Motor Vehicles, the Board presumes that the vehicle is not being held for resale or lease. As a result, you must report use tax based on your purchase price for the vehicle.

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### **VEHICLES CAPITALIZED AS ASSETS**

Except for vehicles held for leasing, vehicles that are capitalized in an asset account and depreciated for income tax purposes are not considered to be held for sale in the regular course of business. You must report tax based on the cost of the vehicle.

### **NEW VEHICLES NOT ORDINARILY SOLD BY A DEALERSHIP**

If you use a resale certificate to purchase a new vehicle that you do not ordinarily sell (or are not franchised to sell) and use the vehicle for any purpose other than demonstration or display, the vehicle is not considered as being held for resale or lease. You must report tax based on the cost of the vehicle.

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## 4. Special Taxing Jurisdictions

*This chapter is designed to explain how you should determine the correct tax rate for your taxable sales or leases. The total sales and use tax rate is a combination of several rates and may or may not include a rate for special tax districts. Special tax districts have been approved by voters in various parts of the state to fund mass transit projects and other public services. Whether or not you have to charge a special district tax rate will depend on where the vehicle is registered.*

### **SPECIAL DISTRICT TAXES—IN GENERAL**

As a motor vehicle retailer, you must generally report sales or use tax at the standard statewide rate of 7.25 percent (this is the rate as of July 1996, but is subject to change). In addition, you may be required to report tax for a special tax district.

Special tax districts have been approved by voters in several counties to pay for public transportation programs and other public services. The districts are funded by a transactions (sales) and use tax that is similar, but not identical, to the standard statewide sales and use tax. Examples of special tax districts include the Bay Area Rapid Transit District (which encompasses the counties of San Francisco, Alameda, and Contra Costs), and the Sonoma County Open Space Authority.

The tax rate for districts vary. Some are funded by a 0.50 percent rate, while others are funded by a 0.25 or 0.125 rate. In some counties, more than one rate will apply. For example, in Los Angeles County there are two special tax districts, each funded by a 0.50 percent rate.

Consequently, the total sales and use tax rate in that county is 8.25 percent (the standard statewide rate of 7.25 percent plus 0.50 percent for each special tax district).

### **HOW TO APPLY THE SPECIAL DISTRICT TAX RATE**

If you sell or lease a vehicle to a customer who registers the vehicle in a special tax district, you are considered to be “engaged in business” in the district. As a result, you must collect and report the applicable special district tax.

Examples:

- You are located in Los Angeles County, where there are two districts, each funded by a 0.50 percent rate. You sell or lease a vehicle to a customer who will register the vehicle in the same county. You would charge the standard statewide rate of 7.25 percent plus 1.00 percent for the two special tax districts in effect in the county, for a total rate of 8.25 percent.

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- You are located in Los Angeles County and sell a vehicle that will be registered in Kern County, where there are no special tax districts. You would charge only the statewide rate of 7.25 percent.
  - You are located in Kern County and sell a vehicle that will be registered in Los Angeles County, where there are two special tax districts. As with the first example, you would report tax at the total rate of 8.25 percent (the standard statewide rate of 7.25 percent plus one percent for the two districts).

For a listing of the special districts in effect throughout the state and the applicable tax rates, you should order a copy of Pamphlet 71, *California City and County Sales and Use Tax Rates*. The pamphlet can be obtained from a local Board office or from the Board's headquarters in Sacramento (see pages 38 and 41). You may also want to request a copy of Pamphlet 44, *Tax Tips for District Taxes*.

### **REQUIRED DOCUMENTATION FOR SALES NOT SUBJECT TO DISTRICT TAX**

If you are located in a special tax district and sell or lease a vehicle that will be registered in an area where there is no special tax district, you are required to obtain a signed declaration from the purchaser indicating where the vehicle will be registered. The document must be signed by the purchaser under penalty of perjury.

Please see page 45 for sample declarations used for commercial and noncommercial vehicles. Although you are not required to use the same declarations shown in the appendix, you must use declarations that contain the same information.

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## 5. General Information

### BAD DEBTS

You may take a bad debt deduction on your return under certain circumstances. You may take the deduction for bad debts that are charged off for income tax purposes (or, if you are not required to file income tax returns, charged off in accordance with generally accepted accounting principles). You cannot deduct more than the amount charged off as described above. And you cannot claim a bad debt deduction unless you have reported and paid tax on the amount claimed.

For example, if you repossess a vehicle, you can claim a deduction on your tax return for the net taxable loss, provided you have charged off the amount for income tax purposes. The net taxable loss is the loss after adjustments have been made for the wholesale value of the repossessed vehicle and for other credits, such as refunded insurance payments and unearned finance charges, and for charges included in the sale that were not subject to tax.

The formula for calculating net taxable loss and the allowable deduction on your tax return is provided in Regulation 1642, *Bad Debts*. The regulation also includes specific examples of how to compute the deduction for one vehicle or for several vehicles. For information on how to obtain a copy of this regulation, please see page 38.

When claiming a repossession loss, you should note the following:

- You can claim a deduction only if a net loss has been incurred.
- You may base the wholesale value of the repossessed vehicle on industry-recognized wholesale price guides; however, if the vehicle is not in average condition, you can make an appropriate adjustment to the published wholesale price.
- You cannot use estimated or unsupported figures or percentages to calculate your repossession loss.
- You cannot claim a deduction for expenses incurred in attempting to collect an account.
- You cannot claim a deduction for that portion of a debt that is retained by, or paid to, a third party as compensation for collecting an account.
- You must report any amounts that you may recover after claiming a repossession loss. The report must be made on the first tax return following the recovery.

You may also take bad debt deductions for uncollectible open accounts, provided you have charged off the amount for income tax purposes. These deductions should be taken in substantially the same manner as those involving repossessions (in other words, if the bad debt includes nontaxable charges, you cannot claim a deduction for

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those charges). For example, if installation or repair labor is performed in connection with the sale of parts, you would deduct only the portion of the bad debt losses applicable to your taxable sale of the parts. The installation or repair labor is not subject to tax and cannot be deducted.

### **CALIFORNIA LEMON LAW**

If the owner (consumer) of a vehicle claims the vehicle has major manufacturing defects, he or she can pursue a claim against the manufacturer, using an arbitration process provided for in the California Civil Code (Section 1793.2). If the mediator rules in favor of the customer, the manufacturer is required by law either to replace the automobile or to reimburse the purchase price.

*Note:* It is not necessary that the parties go to a mediator in order for a vehicle replacement to come within the Lemon Law.

However, both parties must explicitly agree that the replacement is being made under the provisions of the Lemon Law. If the agreement between the manufacturer and the consumer states, in effect, that the manufacturer admits no fault, the replacement does not qualify as a Lemon Law replacement.

In the case of replacement, the new vehicle is considered a replacement under warranty and the tax liability is based only on the amount the customer pays in excess of the credit received.

In the case of reimbursing the customer, the manufacturer may deduct an amount for the buyer's usage of the defective vehicle and any amount charged for nonmanufacturer items installed by the dealer. The manufacturer may file a claim for refund of the sales tax included in the reimbursement paid to the customer (before calculating the sales tax refund, any amount that was not included in the measure of tax in the original sale must be deducted from the original selling price).

### **COURTESY DELIVERIES TO AND FOR OUT-OF-STATE DEALERS**

#### *Factory-Directed Deliveries*

An out-of-state dealer may contract to sell a vehicle to a customer in California and will direct the manufacturer to make delivery to the customer at a specified location in California. The manufacturer may then deliver the vehicle to a dealer in California, who will redeliver it to the customer. The delivering dealer normally charges the manufacturer for new car preparation, but the vehicle is not entered in the dealer's inventory.

#### **Application of Tax**

If the out-of-state dealer is not engaged in business in California or does not have a California seller's permit and a dealer's license from the California Department of Motor Vehicles, the tax should be reported by the California dealer based on the retail sales price. In this

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instance, under the Sales and Use Tax Law the California dealer is considered to have made a retail sale.

**Note—Mobile Transportation Equipment**

As a dealer, you must generally report tax (based on the retail sales price of the equipment) if you make a factory-directed delivery of mobile transportation equipment to a leasing company for lease purposes (there are some exceptions). This would apply to vehicles such as trucks, buses, truck tractors, truck trailers, pickup trucks, pickup-type vehicles, and similar vehicles classified as mobile transportation equipment (defined on pages 12-13).

*Deliveries That Are  
Not Factory Directed*

Typically, this involves a delivery agreement reached directly between an out-of-state dealer and a California dealer. The manufacturer is not involved. For example, an out-of-state dealer who is not engaged in business in California may ask a California dealer to deliver a vehicle to a customer located in this state. The vehicle is taken from the inventory of the California dealer, and the local dealer will invoice the out-of-state dealer for the car.

**Application of Tax**

In the example in the previous paragraph, the California dealer must report sales tax on the transaction unless the California customer is another dealer who will be reselling the vehicle. Tax is based on the retail sales price paid by the customer to the out-of-state dealer.

**Note—Mobile Transportation Equipment**

If mobile transportation equipment is involved (see previous page) and the customer is a leasing company, the transaction is, except under certain conditions, subject to sales tax based on the selling price charged by the out-of-state dealer.

**MODIFICATIONS OF VEHICLES FOR PERSONS WITH  
DISABILITIES**

Tax does not apply to the sale or installation of items and materials that (1) are used to modify a vehicle so that a person with disabilities can operate it *and* (2) are incorporated into, attached to, or installed on the vehicle. Sales of tools and materials that are used to modify the vehicle, but which are not incorporated into, attached to, or installed on the vehicle, are subject to tax.

*Note:* The following definitions apply to this exemption:

- Persons with disabilities includes disabled persons who qualify for special parking privileges (as described in Vehicle Code Section 22511.5).
- The term *vehicle*, as used in this section, refers to:  
All devices that qualify as vehicles under the Vehicle Code Sections 670, including, but not limited to automobiles, vans, trucks, mobile homes, and trailercoaches

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Vehicles that are (1) owned or operated by physically handicapped persons, or (2) used in the public or private transport of handicapped persons and which would otherwise qualify for a distinguishing license plate were they registered to a physically handicapped person or persons (as described in Vehicle Code Section 22511.5).

## **RECORDKEEPING**

It is important to maintain adequate records since Board representatives may examine your books, papers, records, and other documents to verify the accuracy of your tax returns, or if no return is made, to determine the amount of tax that is due. Failure to maintain accurate records is considered evidence of negligence or intent to evade tax and may result in penalties.

Under the Sales and Use Tax Law, you are required to keep adequate records that show:

- Your gross receipts from your sales or leases of vehicles and other tangible personal property, whether you regard the receipts as taxable or nontaxable
- All deductions allowed by law and claimed on your sales and use tax returns
- The total purchase price of all tangible personal property purchased for sale, consumption (use), or lease

These records must include:

- The normal books of account
- All bills, receipts, invoices, repair orders, contracts, or other documents of original entry that support the entries in the books of account
- All schedules of working papers used in connection with the preparation of tax returns

## **SALES TAX REIMBURSEMENT**

You are required to report and pay sales taxes to the Board, however, you may collect from your customer an amount equal to the tax you will owe on a sale. For example, if you will owe \$800 in sales tax on a vehicle sale, you may pass that cost on to your customer, provided it is agreed to as part of the sale. It is presumed that the customer agrees to pay the addition of tax if:

- You post a sign on your premises stating that sales tax reimbursement will be added to all prices of taxable merchandise, or make a similar statement on price tags, advertising material, and other printed material directed to the purchaser;
- You list a separate amount for sales tax reimbursement on your receipt or invoices;

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- The sales agreement specifically calls for the addition of sales tax reimbursement.

If you include the tax amount in your prices, rather than itemizing the tax on your invoices or receipts, you must either post a sign on your premises stating, “Prices include sales tax reimbursement calculated to the nearest mill,” or add this statement to your receipt or invoice.

### **SALE OF BUSINESS OR EQUIPMENT**

Tax applies to the sale of equipment and tools used in your business. If you sell your business for a lump-sum price, sales tax applies to the fair market value of the equipment, tools, and other tangible personal property sold. You must report tax on the sale of any vehicles included in the sale that are sold for use rather than for resale (for example, delivery cars, parts department pickups, tow trucks, and so forth).

For more information on the sale of business assets, you should request a copy of Regulation 1595, *Occasional Sales—Sale of a Business—Business Reorganization*.

### **SELF-CONSUMED ITEMS**

*(items used for purposes other than for resale)*

If you use an item that you purchased without paying tax (for example, you purchased the item with a resale certificate), you owe use tax measured by its purchase price when the item is used for a purpose other than resale or lease. Examples of taxable uses include oil, grease, gasoline, and parts that are used for company vehicles or service department vehicles. The cost of such items must be reported on your sales and use tax return (on Line 2, “Purchases Subject to Use Tax”).

*Note:* Using an item for display or demonstration purposes while it is being held for resale in the regular course of business is not considered a taxable use.

Use tax often applies to the use of the following items. If you have any questions regarding your tax liability for items used for purposes other than for resale, please contact your nearest Board office (see page 41).

#### ***Oil and Grease***

If you use oil and grease in company cars, service cars, loan cars, tow trucks, and so forth, you are considered the consumer (user) of these products and must report tax based on your purchase price. Tax also applies to oil and grease used in vehicles subject to tax under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees—see pages 23-25).

The oil and grease installed in new or used vehicles that are being held only for resale are not subject to the use tax. In this case, the products are considered as sold with the vehicle.

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## *Gasoline*

### **Taxable and Nontaxable Uses**

You are not liable for reporting tax on gasoline that is in the fuel tank of a vehicle *at the time it is sold* (it is considered to be sold as part of the vehicle). However, you are liable for other uses of gasoline, as described below.

You are generally liable for use tax on the use of gasoline that you or the manufacturer place in the fuel tank of:

- Company cars, service cars, tow trucks;
- Vehicles that are being held for resale or lease and used prior to their sale;
- Vehicles whose use is taxable under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees—see pages 23-25);
- Vehicles that are used as demonstrators only;
- Loaned vehicles that are taxable based on the cost of purchase;
- Loaned vehicles that are taxable based on their fair rental value.

### **How to Report Tax**

If the amount of gasoline that you purchased without payment of tax is *more* than the amount of gasoline sold with vehicles, the difference must be reported on Line 2 of your tax return (“Purchases Subject to Use Tax”). In determining the amount of gasoline purchased without payment of tax, do not overlook the gasoline in the tanks of new vehicles that you purchased for resale from a manufacturer. The cost of the gasoline on which use tax is based includes the 9 cents per gallon Federal Excise Tax and the 18 cents per gallon State Motor Vehicle Fuel Tax.

If the amount of gasoline that you purchased without payment of tax is less than the amount of gasoline sold with vehicles, the difference should be reported on your tax return, under “Tax-Paid Purchases Resold.”

## *Parts and Accessories*

You should report tax on the cost of parts and accessories installed on the following vehicles:

- Loan cars whose use is subject to tax based on the cost of purchase
- Company cars, service cars, tow trucks

You are not required to report tax on the cost of parts and accessories installed on the following vehicles:

- Vehicles held for resale or taxable lease, including vehicles used for demonstration or display
- Vehicles whose use is subject to tax under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees—see pages 23-25)
- Loan cars whose use is subject to tax based on their fair rental value

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### *Paint*

If you repaint a customer's used vehicle for a lump-sum charge, you are considered the consumer (user) of the paint for tax purposes. This means that the sale of the paint to you is taxable, and you cannot use a resale certificate to buy the paint. If you do purchase the paint without paying tax, you must report its cost on your sales and use tax return under "Purchases Subject to Use Tax."

However, you may purchase paint without payment of tax (for resale) if the paint is applied to a vehicle that is to be resold. Tax applies to the total selling price on the subsequent sale of the repainted car.

See also "Paint Supplies" below.

### *Supplies*

#### **Paint Supplies**

You are considered the consumer (user) of paint supplies you purchase that do not become a component part of the repainted vehicle (for example, sandpaper, masking tape, and paint thinner). You should pay tax on these items at the time of purchase. If you do not pay tax when you purchase them, you should report the cost of purchase on your sales and use tax return under "Purchases Subject to Use Tax."

#### **Nuts, Bolts, Cotter Pins, Washers**

If these items are incorporated into property that is sold (for example, they are incorporated into a vehicle that you will resell), they are considered to be sold with the property. You may use a resale certificate to purchase items used for this purpose; however, you are liable for tax on the sale of the property.

If the items are used for repairs that do not involve the sale of property (for example, they are used to repair or recondition company or service department vehicles), you are considered the consumer (user) of the items. This means that the sale of these items to you is taxable. If you did not pay tax to your vendor when you purchased the items, you should report the cost of purchase on your sales and use tax return under "Purchases Subject to Use Tax."

#### **Supply Charges Made by Automobile Body Repair Shops**

Under the Business and Professions Code, automotive repair shops and auto body shops are prohibited from making a nonspecific or general charge to their customers for supplies to cover their costs for supplies. Instead, if they choose to recover these costs from the customer, they must separately state the charge for each supply item on the invoice. These separately stated charges may or may not be subject to tax. If the supply item becomes a component part of the repaired article, tax does apply. If the item does not become a component part of the repaired article, tax does not apply). The reason that tax would not apply for such charges is that you are regarded as the consumer (user) of the supplies. If you did not pay tax when you purchased them, you would report the cost on Line 2 of your sales and use tax return, "Purchases Subject to Use Tax."

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For more information on charges made by automobile body repair shops, you should contact your nearest Board office and request a copy of Pamphlet 25, *Tax Tips for Auto Repair Garages and Service Stations*.

### *Tools and Equipment*

You should not use a resale certificate to purchase tools and equipment used in your business. Rather, the sale of such tools and equipment to you is taxable. If you buy these items from an automotive supply house that also sells you repair parts for resale, you should make it clear to your supplier that the tools and equipment are not purchased for resale.

### *Parts Used for Warranty Service*

#### **WARRANTIES**

You generally should not collect sales tax reimbursement from your customers for parts that you use for warranty work unless your customer must pay some amount for the replacement part. For example, if you replace a defective tire under a warranty and your customer is required to pay a prorated amount for the new tire, that payment is subject to tax. A portion of the deductible required under warranty contracts may also be taxable (see below.)

If you do not charge your customer for a warranty part, or charge only a deductible amount, tax may apply to your purchase or use of the part, depending on whether the contract is optional or mandatory, as explained below.

#### **Mandatory Warranty Contracts**

A warranty is mandatory when the purchaser may not buy the property without the warranty. A manufacturer's warranty on a new car is an example of a mandatory warranty. When the manufacturer is obligated to furnish parts under a mandatory warranty, your charge *to the manufacturer* for the parts is not considered a retail sale. It is considered a sale for resale. As a result, tax does not apply to those charges.

However, your charge *to the customer* for parts and taxable labor (see note below) is considered a retail sale to the car owner. Tax must be reported on those charges. The tax amount that is due is based on a portion of the deductible amount that is paid by the customer and retained by the dealer, as explained below.

To compute the portion of the deductible subject to sales tax, you would divide the billed price for the parts by the total billed price for the repair labor, before the deductible, and then multiply the deductible by this ratio.

*Example: A customer is required to pay a \$50 deductible under a mandatory warranty. The total charge for the repair work is \$200: \$75 for the parts and \$125 for the labor. The portion of the deductible amount subject to sales tax would be computed as follows:  $\$75 \div \$200 = 37.5\% \times \$50 \text{ deductible} = \$18.75$ . Tax would be based on the \$18.75.*

*Note: Although fabrication labor, such as labor to make new parts, is subject to tax, repair labor is not considered taxable. Consequently, if*

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you are charging the manufacturer only for nontaxable labor and do not furnish parts or materials, tax would not apply to any portion of the deductible paid by the car owner.

### **Optional Warranty Contracts**

If you furnish parts under a manufacturer's optional warranty, you are considered to be making a retail sale of the parts to the manufacturer. As a result, you must report sales tax based on the retail selling price of the parts (cost plus markup).

### ***Reimbursement for Sales Tax***

You can be reimbursed for your tax liability on the sale, as described below.

If the optional warranty states that the manufacturer will pay the total amount of sales tax due (whether or not the customer pays a deductible), you can charge the manufacturer for the full amount of your tax liability.

If the optional warranty requires the customer to pay a deductible and does *not* state that the manufacturer will pay the full amount of sales tax due, you must prorate any charges for sales tax reimbursement between your customer and the manufacturer.

*Example.* A customer is required to pay a \$50 deductible under an optional warranty. The total billed price for the repair work is \$575: \$75 for parts and \$500 for labor. As the retailer, you are liable for tax on the \$75 charge for parts. Assuming a 7.25% sales and use tax rate (the rate varies in different locations), you would be liable for \$5.44 in tax on the transaction ( $7.25\% \times \$75 = \$5.44$ ).

As noted above, you must prorate the charge for sales tax reimbursement between the customer and the manufacturer. To do this, you must first determine the percentage of the total bill that is subject to tax. In this example, the parts are subject to tax and represent 13% of the total bill ( $\$75 \div \$575 = 13\%$ ).

Since 13% of the total bill is subject to tax, you would calculate the amount of tax reimbursement you charge your customer based on 13% of the deductible ( $13\% \times \$50 = \$6.50$ ). The amount of tax due on \$6.50 is \$0.47 ( $\$6.50 \times 7.25\%$ ). The manufacturer's share of the tax reimbursement would be the balance, or \$4.97 ( $\$5.44 - \$0.47$ ).

*Reminder:* It is not necessary to prorate the charges if the optional warranty stipulates the manufacturer will pay the total amount of sales tax due.

### ***Transfers of Mandatory Warranties***

If the buyer of a used vehicle pays a fee to have the mandatory warranty transferred into his or her name, the warranty will remain in effect for the new owner until its expiration date. The sale to the manufacturer of parts furnished under the transferred mandatory warranty are not subject to tax (however, if the owner pays a deductible, a portion of that amount may be subject to tax — see above).

## 6. For More Information

### General Tax Questions

If you are calling from within California and have a general tax question or would like to order a publication, please call our Information Center and talk to a customer service representative. Representatives are available from 8:00 A.M. to 5:00 P.M., Monday-Friday, excluding State holidays. Please call:

**1-800-400-7115**

From out of state, please call 1-916-324-2926.

For TDD assistance (telephone device for the deaf), please call:

From TDD phones:

1-800-735-2929

From voice phones:

1-800-735-2922

### Questions Regarding Your Account

Please call the office that maintains your records. The name and telephone number of the appropriate office is printed on your tax returns. Field office telephone numbers are provided on page 42.

### Fax-Back Service

Our fax-back service is available 24 hours a day. Call 1-800-400-7115 and choose the fax option (from out of state, call 1-916-324-2926).

### Publications and Regulations

To obtain copies of publications and regulations, you may:

**Call our toll-free number.** Our toll-free number is listed above. If you know the name of the publication, form, or regulation you need, you can call at any time and leave a recorded message. Or, if you call during working hours, you can talk to a representative and leave your request. Certain documents are also available on our fax-back service described above.

**Contact your local Board office.** See page 41 for their telephone numbers. If you plan to visit the office to pick up a publication, you should call ahead to make sure they have a copy of what you need.

**Write to our Supply Unit.** If you know the name of the publication, form, or regulation you need, you can write to our supply unit and request a copy. Their address is: Supply Unit; State Board of Equalization; 3920 West Capitol Avenue; Suite 200; West Sacramento, CA 95691. Their fax number is 916-372-6078.

**Regulations.** The following regulations may be of interest:

- 1566 Automobile Dealers and Salesmen
- 1610 Vehicles, Vessels, and Aircraft
- 1619 Foreign Consuls
- 1642 Bad Debts
- 1660 Leases of Tangible Personal Property — in General

*Publications and Regulations (continued)*

- 1661 Leases of Mobile Transportation Equipment
- 1669.5 Demonstration, Display, and Use of Property Held for Resale — Vehicles
- 1698 Records
- 1700 Reimbursement for Sales Tax
- 1821 Foreword — District Taxes
- 1823 Application of Transactions (Sales) Tax and Use Tax
- 1823.5 Place of Delivery of Certain Vehicles, Aircraft and Undocumented Vessels

**Publications.** The following publications may be of interest to readers of this booklet. The letters V, K, C, or S following a publication indicate the pamphlet is available in Vietnamese, Korean, Chinese, and Spanish:

- 25 *Tax Tips for Auto Repair Garages*
- 44 *Tax Tips for District Taxes*
- 46 *Tax Tips for Leasing of Tangible Personal Property in California*
- 58-A *How to Inspect and Correct Your Records*
- 70 *The California Taxpayer's Bill of Rights (V,K,C,S)*
- 71 *California City and County Sales and Use Tax Rates*
- 73 *Your California Seller's Permit (V,K,C,S)*
- 74 *Closing Out Your Seller's Permit (V,K,C,S)*
- 75 *Interest and Penalty Payments*
- 76 *Audits and Appeals (K,C,S)*
- 76 *Audits and Appeals*
- 77 *Publications (general listing—Board publications)*

**Other Taxes and Fees**

As a motor vehicle dealer, you may also be responsible for reporting additional fees and taxes administered by the Board, including the following:

<i>Program</i>	<i>For more information, call</i>
• Use Fuel Tax	916-322-9669
• Motor Vehicle Fuel License Tax	916-322-9669
• Diesel Fuel Tax	916-322-9669
• Underground Storage Tank Maintenance Fee	916-322-9669
• Childhood Lead Poisoning Prevention Fee	916-322-9669
• Environmental Fee	916-323-9555
• Hazardous Substance Tax	916-323-9555
• Occupational Lead Poisoning Prevention Program	916-323-9555
• Oil Recycling Fee	800-400-7115
• Tire Recycling Fee	800-400-7115

**Tax Information Bulletin**

As a registered seller, you also receive the quarterly *Tax Information Bulletin*, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to sellers. The bulletin is mailed with your sales and use tax return(s). If you file only once a year and would like to receive all four bulletins, please write to the following address and ask to be added to Mailing List #15: State Board

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of Equalization; Mail Services Unit (MIC:12); Attn: Addressing Systems; P.O. Box 942879; Sacramento, CA 94279-0012

### **Written Tax Advice**

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that you reasonably relied on written advice from the Board regarding the transaction. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

You should send your request to the Board office that handles your account.

### **Classes**

You may enroll in a basic sales and use tax class offered by some local Board offices. You should call ahead to find out whether your local office conducts a class for beginning sellers.

### **Computer Access— World Wide Web**

We maintain the following information on our web site: sales and use tax rates by county, Board field office addresses and telephone numbers, Taxpayers' Bill of Rights Hearings, publication order forms, an agency profile, and Board Member biographies. You can also download copies of selected pamphlets, including pamphlet 73, *Your California Seller's Permit*.

Our address is <http://www.boe.ca.gov/boe>.



### **Taxpayers' Rights Advocate**

If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the Sales and Use Tax Law, please contact the Taxpayers' Rights Advocate office for help. Call 916-324-2798 (FAX 916-323-3319).

If you prefer, you can send a letter to:

Taxpayers' Rights Advocate  
State Board of Equalization  
450 N Street MIC:70  
P.O. Box 942879  
Sacramento CA 94279-0070.



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## 7. Appendix

- Exhibit 1*      *Sample of Form BT-447*  
Statement Pursuant to Section 6247 of the California Sales and  
Use Tax Law  
(see pages 2-3 for information on use of this form)
- Exhibit 2*      *Sample of Form BT-448*  
Statement of Delivery Outside of California  
(see pages 2-3 for information on use of this form)
- Exhibit 3*      *Sample of Declaration Used for Noncommercial Vehicles Claiming*  
*Exemption from Special District Tax*  
(see page 28 for information on use of this declaration)
- Exhibit 4*      *Sample of Declaration Used for Commercial Vehicles Claiming*  
*Exemption from Special District Tax*  
(see page 28 for information on use of this declaration)
- Exhibit 5*      *Local Use Tax Allocation Guidelines*
- Reader Survey*      *What do you think of this pamphlet?*

Exhibit 1: Form BT-447 (to order a current copy, please see page 39)

BT-447 (3-95)  
STATEMENT PURSUANT TO SECTION 6247  
OF THE CALIFORNIA SALES AND USE TAX LAW



STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

**NOTICE TO SELLER AND PURCHASER**

The making in good faith of a full and complete statement by the retailer (seller) will relieve the retailer of any liability for collecting of Use Tax from the purchaser. The retailer must retain the original statement. If the retailer does not collect the Use Tax from the purchaser and the purchaser purchases the vehicle for use in California, then the purchaser must pay the applicable Use Tax directly to the Board of Equalization.

*Seller — please send a copy of this statement to:*

BOARD OF EQUALIZATION  
P.O. Box 942879  
Sacramento, CA 94278-0037  
Retain the *original* for your records

I have a residence in California where I reside permanently, seasonally, or recurrently. I am purchasing a vehicle described as:

YEAR	MAKE	MODEL	VIN/PLATE #
NAME OF CALIFORNIA DEALER			

This vehicle will be delivered to me at the following Out-of-State location:

CITY	STATE
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I certify that the above described vehicle is being purchased for use outside California, and will be used at the following out of state location(s):

STREET ADDRESS	CITY	STATE
STREET ADDRESS	CITY	STATE
STREET ADDRESS	CITY	STATE

I understand that if this vehicle is brought into California within 90 days of its delivery to me, regardless of the purpose or duration, I shall be presumed that I have purchased the vehicle for use in California and if it is determined that California Use Tax is due, I will pay it directly to the State Board of Equalization.

PURCHASER'S SIGNATURE	DATE
DRIVER LICENSE NUMBER	STATE

**CAUTION:** Fraudulent use of this statement to avoid the payment of California Sales and Use Tax can result in severe penalties.

*Exhibit 2: Form BT-448 (to order a current copy, please see page 39)*

**BT-448 (1-95)  
STATEMENT OF DELIVERY OUTSIDE CALIFORNIA**



STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

**NOTE:** When a vehicle is delivered to the purchaser outside California, the seller (or person making the delivery on behalf of the seller) and the purchaser would both be at the out-of-state delivery point at the same time, that is, at the time of delivery. In order to establish that such is the case, and that the delivery did not occur in California, both persons are urged to appear at the same time before a notary at the out-of-state delivery location to sign this statement and have it notarized. The seller must retain the original of this statement to support any claimed exemption from California Sales and Use Tax.

VEHICLE YEAR	MAKE	MODEL	VIN (if any)
OUT-OF-STATE LOCATION			DATE OF DELIVERY
NAME OF SELLER (if dealer)			

**I hereby certify, under penalty of perjury under the laws of the State of California that the above described vehicle was delivered outside California on the date and at the place stated above.**

I have delivered the above described vehicle to the purchaser named below

NAME (PLEASE PRINT)	CHECK ONE	
	SALESMAN	MINOR
	PARTNER	AGENT
	OTHER (explain below)	
SIGNATURE	DATE	

The vehicle described above was delivered to me by the above named person. I understand that if this vehicle is brought to California within 90 days of its delivery to me regardless of the purpose or duration, it shall be presumed that I have purchased the vehicle for use in California and if it is determined that use tax is due, I will pay it directly to the State Board of Equalization.

PURCHASER'S NAME (PLEASE PRINT)	DRIVER LICENSE NO.	STATE
PURCHASER'S SIGNATURE		DATE

**NOTICE TO SELLER AND PURCHASER**

While not required, both seller and purchaser are urged to retain additional documentation such as receipts for meals, lodging, fuel, and transportation.

**NOTARY STATEMENT**

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, \_\_\_\_\_,  
a Notary Public in and for the County of \_\_\_\_\_, State of \_\_\_\_\_,  
duly commissioned and sworn, together, personally appeared both \_\_\_\_\_  
and \_\_\_\_\_, known to me to be the persons whose names are subscribed to the  
within instrument, and acknowledged that they executed the same.

**CAUTION:** Fraudulent use of this statement to avoid the payment of California Sales and Use Tax can result in severe penalties.

*Exhibit 3: Sample Declaration (Exemption from Special District Tax) — Noncommercial Vehicles*

I HEREBY CERTIFY THAT:

(1) The \_\_\_\_\_ (here insert description of vehicle, giving name of manufacturer and type);  
 purchased from \_\_\_\_\_ (insert name of seller); \_\_\_\_\_ will be registered to the following address:  
 \_\_\_\_\_

(2) The above address is outside the \_\_\_\_\_ (name of district); \_\_\_\_\_ District.

(3) The above address is my principal place of residence (or, in the case of a corporation, principal place of business).

(4) When not in use the vehicle will be kept or garaged at: \_\_\_\_\_

REGISTRATION

(5) The vehicle will be stored, used or otherwise consumed principally outside the \_\_\_\_\_ (name of district); \_\_\_\_\_ District.

(6)  (a) The purchaser does not hold a California seller's permit.

(b) The purchaser holds California seller's permit # \_\_\_\_\_

I understand that this declaration is for the purpose of allowing the above named seller to treat the sale of the above described tangible personal property as exempt from the transactions (sales) tax imposed by the \_\_\_\_\_ (name of district); \_\_\_\_\_ District. If the property is principally stored, used or otherwise consumed in that district, the purchaser shall be liable for and pay the use tax.

The foregoing declaration is made under penalty of perjury.

PURCHASER \_\_\_\_\_

TITLE \_\_\_\_\_

AUTHORIZED AGENT \_\_\_\_\_

DATE \_\_\_\_\_

*Exhibit 4: Sample Declaration (Exemption from Special District Tax) — Commercial Vehicles*

I HEREBY CERTIFY THAT:

(1) The \_\_\_\_\_ (here insert description of commercial vehicle, giving name of manufacturer and type);  
 purchased from \_\_\_\_\_ (insert name of seller); \_\_\_\_\_ will be registered to the following address:  
 \_\_\_\_\_

(2) The vehicle will be operated from the following address: \_\_\_\_\_

(3) The address from which the vehicle will be operated is outside the \_\_\_\_\_ (name of district); \_\_\_\_\_ District.

(4) When not in use, the vehicle will be kept or garaged at: \_\_\_\_\_

REGISTRATION

(5) The vehicle will be stored, used or otherwise consumed principally outside the \_\_\_\_\_ (name of district); \_\_\_\_\_ District.

(6)  (a) The purchaser does not hold a California seller's permit.

(b) The purchaser holds California seller's permit # \_\_\_\_\_

I understand that this declaration is for the purpose of allowing the above named seller to treat the sale of the above described tangible personal property as exempt from the transactions (sales) tax imposed by the \_\_\_\_\_ (name of district); \_\_\_\_\_ District. If the property is principally stored, used or otherwise consumed in that district, the purchaser shall be liable for and pay the use tax.

The foregoing declaration is made under penalty of perjury.

PURCHASER \_\_\_\_\_

TITLE \_\_\_\_\_

AUTHORIZED AGENT \_\_\_\_\_

DATE \_\_\_\_\_

*Exhibit 5: Local Use Tax Allocation Guidelines*

<b>Guidelines for Allocating 1% Local Use Tax Due on Leases of Motor Vehicles</b>		
<b>Type of Lessor</b>	<b>Lease Greater Than 4 Months</b>	<b>Lease for 4 Months or Less</b>
	<b>Allocate 1% Local Tax To:</b>	
<b>California new motor vehicle dealer-lessor:</b> All motor vehicle leases, including pickup trucks*	Dealer/lessor's sales/business location	Dealer/lessor's sales/business location
<b>California lessor:</b> Motor vehicle purchased from California dealer, including pickup trucks*	California dealer's sales/business location (Schedule F)	Lessor's business/sales location
<b>California lessor:</b> Motor vehicle <i>not</i> purchased from California dealer  Pickup trucks* not purchased from California dealer	Lessee's place of residence/registration (Schedule B)  Lessor's business/sales location	Lessor's business/sales location  Lessor's business/sales location
<b>Out-of-state lessor:</b> Motor vehicle purchased from California dealer, including pickup trucks*	California dealer's sales/business location (Schedule F)	Lessee's place of residence/registration (Schedule B)
<b>Out-of-state lessor:</b> Motor vehicle <i>not</i> purchased from California dealer, including pickup trucks*	Lessee's place of residence/registration (Schedule B)	Lessee's place of residence/registration (Schedule B)

\* Pickup trucks rated under one-ton capacity

## *What do you think of this pamphlet?*

We hope that this newly revised tax tip pamphlet will help you to better understand the Sales and Use Tax Law as it applies to your business.

We would appreciate it if you could take a few minutes to give us your comments and suggestions for this pamphlet, so that we can improve future revisions. We'd also like to have some information that will help us make our publications program more useful to you. Please answer the questions below and on the reverse, remove the page, and return it to us. It is designed as a postage-paid self-mailer: you may fold the page as indicated and seal it with two pieces of tape.

Thank you for taking the time to respond to this survey.

### **✦ Pamphlet Comments and Suggestions**

1. Does this pamphlet help you apply the sales and use tax in your business operations?
2. Are there any sections of the pamphlet that you find particularly helpful? (please note)
3. Are there any sections of the pamphlet that you find confusing? (please explain, if possible)
4. Are there any topics not addressed in this pamphlet that you would like us to include?
5. Are there any sections of the pamphlet that you feel are incomplete? What would you add to them?
6. Do you have any other comments or suggestions for improving this pamphlet?

*Please answer questions on reverse*

date \_\_\_\_\_

tape



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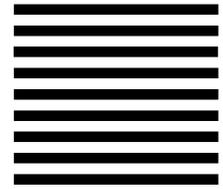
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**Reader Survey Information** (please check all boxes that apply)

What is the nature of your business?

How long have you been in business?

- less than one year     1-5 years
- 6-10 years             more than 10 years

Did you receive a copy of this pamphlet (or an earlier version) when you applied for or received your seller's permit?

- yes     no     not sure

How did you find out about this pamphlet?

- Board field office
- Board auditor
- Tax Information Bulletin
- Publications listing in a Board pamphlet
- Other (please list) \_\_\_\_\_

Where did you obtain this pamphlet?

- Board field office
- Board auditor
- Board 800 Number Information Center
- Other (please list)

Do you use any other Board publications to help you apply or understand the California Sales and Use Tax Law? (please list)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

California State Board of Equalization  
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